

BEFORE THE
Federal Communications Commission
WASHINGTON, DC 20554

In the Matter of)	
)	
JAMESTOWN MANUFACTURING CORPORATION)	WT Docket No. 07-136
)	
Waiver Request for Extension of Time to Construct Stations in the Paging and Radiotelephone Service)	

To: Chief, Wireless Telecommunications Bureau

**REPLY COMMENTS OF
JAMESTOWN MANUFACTURING CORPORATION**

Jamestown Manufacturing Corporation (“Jamestown”), by its attorneys, hereby replies to the comments of USA Mobility, Inc. (“USAM”) opposing the above-captioned request for waiver of the period of time in which to demonstrate “substantial service” in connection with Jamestown’s 698 35 MHz paging authorizations.¹ As explained below, USAM improperly characterizes Jamestown’s diligent, but unavoidably delayed, efforts to deliver service as a “business decision” rather than a consequence of events beyond its control. The Wireless Telecommunications Bureau (“Bureau”) should dismiss USAM’s misleading comments, and promptly grant Jamestown’s waiver request.

¹ Comments of USA Mobility, Inc., WT Docket No. 07-136 (filed August 1, 2007) (“USAM Comments”). Jamestown seeks waiver of Section 22.503(k) of the Commission’s rules, 47 C.F.R. § 22.503(k), to extend its substantial service requirement by three years from June 21, 2007 to June 21, 2010.

I. USAM Presents An Inaccurate Description Of The Paging Industry In General And 35 MHz Paging In Particular.

USAM opens its comments with a dubious account of the state of the paging industry that defies reality. Describing the industry as the “most competitive” of all wireless telecommunications subsectors, and one that is “very much alive,” USAM would have the Bureau believe that paging equipment manufacturers are plentiful, with shelves stocked with products designed to handle every conceivable paging service, no matter how novel or innovative. USAM Comments at 2-3. Under the fanciful scenario put forward by USAM, Jamestown’s inability to acquire paging equipment for its precision RTK GPS service was therefore a product of mistaken “business decisions” and not a direct consequence of an industry in sharp decline.

The truth is far different. As the Bureau surely understands, the state of the paging industry generally – and 35 MHz paging in particular – is far less robust than portrayed by USAM. Demand for lower band paging frequencies is extremely limited, with service providers largely abandoning the 35 MHz band years ago. The paging portfolios of USAM’s own commercial mobile radio service subsidiaries substantiate this fact. Despite holding hundreds of paging licenses between them, according to the FCC’s Universal Licensing System, Arch Wireless License Co., Inc. has not held a 35 MHz paging authorization since 2004 while Metrocall USA, Inc. holds a single 35 MHz paging license (call sign KLF629).² Clearly USAM has joined the exodus of paging service providers from the 35 MHz band. Judging by its

² Significantly, when it had a chance to acquire 35 MHz licenses six years ago during Auction 40, USAM passed. USAM notes in its comments that its subsidiaries participated in Auction 40 when the 35 MHz licenses acquired by Jamestown were available. USAM Comments at 2. What USAM does not disclose, however, is that its subsidiaries only bid on 152-158 MHz and 931 MHz licenses.

comments in this proceeding, USAM does not want anyone else to use the band either – preferring instead to have the underutilized spectrum lie fallow.³

As Jamestown explained in its waiver request, with the decline in demand for 35 MHz paging came a concomitant decline in the number of equipment manufacturers servicing that segment of the industry. This had a drastically negative impact on the ability of Jamestown to timely deliver paging service, particularly given its highly specialized nature for which no “off the shelf” equipment was available.⁴ The dearth of paging equipment providers is substantiated by the comments filed in this proceeding by Altaphon, Inc. (“Altaphon”), a 35 MHz and 43 MHz licensee. Altaphon supports Jamestown’s waiver request in large part because “the major manufacturers of paging transmitters below 150 MHz have found little reason to continue manufacturing for a market which has largely abandoned these frequencies.” Comments of Altaphon, Inc., WT Docket No. 07-136, at 1 (filed July 24, 2007). Altaphon recognizes, as should the Bureau, that the lack of paging equipment manufacturers is a very real hurdle that lower band paging service providers must clear to timely build out their networks.

Jamestown recently cleared that hurdle when, after more than four years of diligent efforts, it finally acquired a reliable paging amplifier. Jamestown never had the “choice” of simply using commercially available equipment, as USAM believes, because manufacturers of

³ USAM disingenuously claims that the “[paging] industry welcomes any new or novel products or services that Jamestown may be willing to deploy.” USAM Comments at 3. Its inexplicable opposition to Jamestown’s waiver request, which will permit the expanded delivery of an innovative paging service using paging frequencies for which USAM has no apparent interest, presents compelling evidence to the contrary.

⁴ The RTK GPS data stream differs from traditional paging data streams because it includes real time correction data of GPS errors. In addition to requiring a specialized amplifier, Jamestown’s paging service also requires a specialized exciter, which Jamestown’s parent company developed on its own. A specialized exciter was required because the encoding scheme was not compatible with legacy paging exciters that generate either FSK 2 level or FSK 4 level modulation.

35 MHz amplifiers were non-existent and used amplifiers were too small in number and too unreliable in nature to be of any use. *See* USAM Comments at 8. Instead, Jamestown had to coax the only manufacturer even willing to produce a 35 MHz amplifier into doing so. Once that manufacturer agreed, Jamestown immediately commenced development of the amplifier with the expectation that production would soon follow. But as detailed in its waiver request, a series of unexpected events beyond Jamestown's control unavoidably delayed delivery of a reliable amplifier.

To the extent USAM or other paging operators may have built out their paging networks using readily available equipment is utterly irrelevant to the matter at hand because no one else is building out in the 35 MHz band. In contrast, Jamestown required a 35 MHz paging amplifier, and diligently sought the development, testing and manufacture of that critical piece of equipment. Its single-minded pursuit of the amplifier, despite significant obstacles beyond its control, amply justifies the grant of Jamestown's three-year construction deadline extension request.

II. USAM Misreads Relevant Commission Precedent.

USAM's failure to comprehend the specialized nature of Jamestown's paging service undermines its treatment of the FCC decisions cited by Jamestown in support of its waiver request.⁵ The Bureau should reject USAM's misguided reading of these cases.

⁵ *See* USAM Comments at 4-9 (discussing *Consolidated Request of the WCS Coalition For Limited Waiver of Construction Deadline for 132 WCS Licenses*, 21 FCC Rcd 14134 (WTB 2006) ("WCS Coalition"), *Request of Warren C. Havens for Waiver or Extension of The Five-Year Construction Requirement For 220 MHz Service Phase II Economic Area and Regional Licensees*, 19 FCC Rcd 12994 (WTB 2004) ("Warren C. Havens"), and *FCI 900, Inc. Expedited Request for 3-Year Extension Of 900 MHz Band Construction Requirements*, 16 FCC Rcd 11072 (WTB 2001) ("FCI 900")).

USAM essentially attempts to distinguish *WCS Coalition*, *Warren C. Havens* and *FCI 900* by noting that each of these cases involved a comparatively large number of licensees as opposed to the single licensee at issue here. That fact, however, is of no legal consequence. Jamestown is singularly situated because no other licensee offers the innovative paging service that Jamestown does. Indeed, no one can, as it involves proprietary technology for which Jamestown's parent company holds a patent. The fact that there are no similarly situated licensees should not, however, compel the Bureau to ignore the essence of its holdings in *WCS Coalition*, *Warren C. Havens* and *FCI 900* that a lack of suitable equipment justifies the grant of construction extension requests. See *WCS Coalition* at 14139 (granting extension because "limited deployment attempts using available equipment have been marred by technical problems or proved to be economically infeasible"); *Warren C. Havens* at 13001 (granting extension because Bureau "do[es] not believe it is reasonable to fault licensees who obtained licenses and then faced an unexpected loss of equipment"); *FCI 900* at 11077 (granting extension because "digital voice equipment will not be commercially available in sufficient quantities in time to meet the five-year construction deadline"). As with the licensees in each of these cases, Jamestown faced unexpected equipment delays beyond its control that unavoidably delayed the delivery of service. Given this similarity in circumstances, Jamestown merits its own construction deadline extension.

In fact, the case for granting Jamestown's request is more compelling than the requests made in the cited cases because, unlike the licensees in *WCS Coalition*, *Warren C. Havens* and *FCI 900*, Jamestown resolved its equipment problems, and was already offering service, at the time of its extension request. In contrast, the licensees in the cited cases had comparatively little to show for its efforts at the time of their waiver requests. In *Warren C. Havens*, for example,

the Commission granted a three-year extension of the construction deadline to “provide the equipment market time to develop the next-generation digital technology that *may allow* for viable commercial operation of voice or data networks in this band.” *Warren C. Havens* at 13001 (emphasis added). Unlike the speculative nature of the 220 MHz service that “may” have been achieved following extension of the construction deadline, Jamestown’s RTK GPS service is a reality today, with service already available in one economic area and more service on the way. As Jamestown observed in its waiver request, now is not the time to terminate Jamestown’s licenses and thwart the delivery of an important new service.

III. USAM Offers No Relevant Justification For Denying Jamestown’s Waiver Request.

In its comments, USAM offers only one justification for opposing Jamestown’s waiver request – that is, to avoid given Jamestown an “unfair advantage” over its competitors. USAM Comments at 9. This argument is beside the point because, as noted above, no one else is offering the specialized paging service that Jamestown does, and thus there is no advantage to be gained by Jamestown relative to other paging licensees. For this reason alone, the Bureau should dismiss USAM’s baseless attempt to justify its opposition.

Even if USAM’s position had merit, any minimal benefit derived from it would pale in comparison to the significant public interest benefits to be realized upon grant of Jamestown’s waiver request. As detailed by Jamestown in its waiver request, these public interest benefits include improved delivery of public safety services, the deployment of service to rural areas, utilization of spectrum that would otherwise lie fallow, and the delivery of a new communications service. Significantly, USAM does not attempt to refute any of these benefits. Instead, it essentially asks the Bureau to ignore them. The Bureau should not be misled into

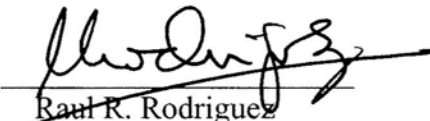
doing so, and instead should conclude that granting Jamestown's waiver request will best serve the public interest.

CONCLUSION

For the reasons set forth herein, Jamestown respectfully requests that the Commission dismiss the comments of USAM and promptly grant its waiver request.

Respectfully submitted,

JAMESTOWN MANUFACTURING CORPORATION

By: 
Raul R. Rodriguez
Philip A. Bonomo

Leventhal Senter & Lerman PLLC
2000 K Street, NW, Suite 600
Washington, DC 20006-1809
202-429-8970

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Its Attorneys

DECLARATION

I, Bruce Peetz, hereby certify that I have reviewed the factual information submitted in the foregoing Reply Comments of Jamestown Manufacturing Corporation and found it to be complete and accurate to the best of my knowledge and belief.

August 16, 2007

By: /s/
Bruce Peetz
Vice President
Jamestown Manufacturing Corporation

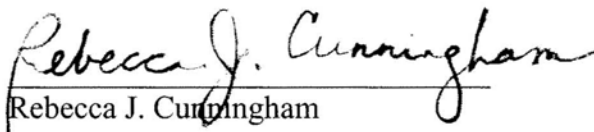
CERTIFICATE OF SERVICE

I, Rebecca J. Cunningham, certify that a true and correct copy of the foregoing Reply Comments of Jamestown Manufacturing Corporation was sent by first-class, postage prepaid mail this 16th day of August, 2007, to the following:

Frederick M. Joyce
Christine McLaughlin
Venable LLP
575 7th Street, NW
Washington, DC 20004
Counsel to USA Mobility, Inc.

David L. Josephson
VP Operations
Altaphon, Inc. – California
329A Ingalls Street
Santa Cruz, CA 95060

*James Brown
Mobility Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554


Rebecca J. Cunningham

* Via electronic mail